

R E S O L U T I O N

WHEREAS, John T. Cady is the owner of a 4.77-acre parcel of land located on Tax Map 134 in Grid D-3, said property being in the 11th Election District of Prince George's County, Maryland, and being zoned R-E; and

WHEREAS, on June 19, 2008, John T. Cady filed an application for approval of a Preliminary Plan of Subdivision (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Plan of Subdivision, also known as Preliminary Plan 4-08005 for Burch Hill Acres was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 19, 2008, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on June 19, 2008, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED the Type I Tree Conservation Plan (TCPI/10/08), and APPROVED Variance Application No. VP-08005, and further APPROVED Preliminary Plan of Subdivision 4-08005, Burch Hill Acres, for Lots 8A and 8B with the following conditions:

1. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers and woodland conservation areas and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”

2. Prior to signature of the preliminary plan, the Type I TCP shall be revised to:
  - a. Re-label the 0.41-acre area as a natural regeneration area.

b. Revise the worksheet as needed.

c. Add the following note:

“The Type II TCP shall show permanent fencing around all woodland conservation areas.”

d. Have the revised plan signed and dated by the qualified professional who prepared the plan.

3. The following note shall be placed on the final plat of subdivision:

“This development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/010/08), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George’s County Planning Department.”

4. Prior to signature approval of the preliminary plan, copies of the stormwater management concept approval letter and associated plan shall be submitted.

5. Development shall be in conformance with the approved Stormwater Management Concept Plan, 3145-2008-00, and any subsequent revisions.

6. Prior to signature approval of the preliminary plan the applicant must provide the following information on the preliminary plan:

a. Lot 8B on the preliminary plan must show 50 feet at the Front Street Line by extending the easement until the width of the easement on the lot is 50 feet.

b. Label the easement and provide the Subdivision Regulation Section that allows the easement.

c. Provide the square footage of the easement.

d. Provide the net lot area of Lot 8B, adjusted due to the increase of the easement area on the lot.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The proposed subdivision is situated on the south side of Burch Hill Road, 839 feet east of Brandywine Road.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone	R-E	R-E
Use(s)	Residential	Residential
Acreage	4.77	4.77
Lots	1	2
Public Safety Mitigation Fee		No

4. **Environmental**—There is a stream and 100-year floodplain on the property. Current air photos indicate that the site is developed with a single-family residential structure and accessory structures, and is partially wooded. No historic or scenic roads are affected by this proposal. There are no significant nearby noise sources and the proposed use is not expected to be a noise generator. No species listed by the State of Maryland as rare, threatened or endangered are known to have critical habitat on or near the subject property. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Beltsville and Sassafra series. Marlboro clay does not occur in this area. The site is in the Developing Tier according to the General Plan.

**Conformance with the Subregion V Master Plan**

There are no specific recommendations pertaining to the environmental elements of the Master Plan that relate to the subject property.

**Conformance with the Countywide Green Infrastructure Plan**

Neither the subject property nor any adjacent properties contain any network elements of the *Approved Countywide Green Infrastructure Plan*.

**ENVIRONMENTAL REVIEW**

An approved Natural Resources Inventory (NRI/094/07) was submitted with the application. There is a stream and 100-year floodplain on the property associated with Piscataway Creek in the Potomac River watershed. Current air photos indicate that the site is developed with a single-

family residential structure and accessory structures, and is partially wooded. The Forest Stand Delineation (FSD) indicates two forest stands totaling 1.78 acres.

Forest Stand A covers approximately 0.63 acre of the site. This woodland is dominated by American beech and white oak averaging 18 inches in diameter at breast height; has a dense shrub layer dominated by American holly; and few invasive plants. Forest Stand B covers approximately 1.15 acres, is dominated by sweetgum and red maple averaging 11 inches in diameter at breast height; has a shrub layer dominated by American holly and multiflora rose; and few invasive plants. Both of the forest stands are suitable for on-site preservation. The expanded stream buffers shown on the NRI are correctly shown on the preliminary plan and the Type I tree conservation plan (TCP). No impacts to any sensitive environmental features are proposed. At time of final plat, a conservation easement should be described by bearings and distances. The conservation easement should contain the expanded stream buffers and woodland conservation areas, and be reviewed by the Environmental Planning Section prior to certification.

This property is subject to the provisions of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the gross tract area of the property is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland. The Type I Tree Conservation Plan, TCPI/010/08, has been reviewed. The woodland conservation threshold is 1.05 acres. Based upon the proposed clearing, the total woodland conservation requirement has been correctly calculated as 1.10 acres. The plan proposes to meet the requirement by providing on-site preservation and on-site planting.

There are some technical errors with the plan and the worksheet. The plan shows two preservation areas. One of these areas, containing 0.65 acre, is existing woodland identified on the NRI. The other area, containing 0.41 acre, has trees, but the understory is currently being mowed. The applicant proposes to stop mowing the understory and allow this area to become a complete woodland habitat. In addition, an area of 0.04 acre of currently mowed lawn will be permitted to grow into woodland using natural regeneration. The worksheet should show 0.65 acre of on-site preservation and 0.45 acre of on-site afforestation/reforestation. The woodland conservation areas should be placed within a conservation easement on the final plat. Prior to signature of the preliminary plan, the Type I TCP should be revised.

A note should be placed on the final plat of subdivision citing the restrictions of the approved Type I Tree Conservation Plan (TCPI/010/08), or as modified by the Type II Tree Conservation Plan. According to the *Prince George's County Soils Survey*, the principal soils on this site are in the Beltsville and Sassafra series. Beltsville soils are highly erodible and are in the C-hydric group. Sassafra soils pose no special problems for development. This information is provided for the applicant's benefit. Prince George's County may require a soils report in conformance with CB-94-2004 during the permit review process.

Copies of the stormwater management concept approval letter and plan were not submitted with this application. Because of the large lot sizes, the limited development proposed and on-site woodland preservation, it does not appear that stormwater ponds will be required. Prior to

signature approval of the preliminary plan, copies of the stormwater management concept approval letter and associated plan should be submitted.

### **Water and Sewer**

The property is located within water and sewer Category 3. Water and sewer lines in Burch Hill Road abut the property. A sewer line traverses the property. This development will be served by public systems.

5. **Community Planning**—The proposed preliminary subdivision is not inconsistent with the 2002 *Prince George's County Approved General Plan* Development Pattern policies for the Developing Tier. The 2002 General Plan locates the subject property within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. This application proposes a low- to moderate-density suburban residential community which is consistent with 2002 General Plan Development Pattern policies for the Developing Tier. The proposed preliminary subdivision conforms to the master plan recommendation of 1.0–1.5 dwelling units per acre per the 1993 Subregion V SMA for residential estate land use. The 1993 Subregion V SMA classified this property in the R-E Zone. There are no other significant master planning issues regarding this two-lot single-family residential preliminary subdivision application.
6. **Parks and Recreation**—According to Section 24-134(a) of the Prince George's County Subdivision Regulations, both lots are exempt from mandatory dedication of parkland requirements. Lot 8A of the subject subdivision is exempt because there is an existing structure on-site. Lot 8B is exempt because it is over an acre in size.
7. **Trails**—There are no master plan trails issues identified in the Adopted and Approved Subregion V Master Plan that impact the subject site. Existing Burch Hill Road is an open section with no sidewalks for its entire length. There are no master plan trails recommendations.
8. **Transportation**—The proposed development of one additional residence would generate 1 AM and 1 PM peak hour vehicle trip as determined using the “Guidelines for the Analysis of the Traffic Impact of Development Proposals.” The site is within the Developing Tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

**Links and signalized intersections:** Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better.

**Unsignalized intersections:** The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the

Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed preliminary plan would impact the intersection of MD 5 and Burch Hill Road. This intersection is not signalized. There are no projects to improve this intersection in either the County Capital Improvement Plan or the State Consolidation Transportation Program. Staff has no available turning movement counts at the critical intersection of MD 5 and Burch Hill Road. Nonetheless, due to the limited trip generation of the site, the Prince George's County Planning Board could deem the site's impact at this location to be de minimus. Staff would therefore recommend that the Planning Board find that 1 AM and 1 PM peak-hour trip will have a de minimus impact upon delay in the critical movements at the MD 5 and Burch Hill Road intersection. The site is not within or adjacent to any master plan transportation facilities.

**TRANSPORTATION STAFF CONCLUSIONS**

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Subdivision Regulations if the application is approved. No transportation-related conditions are recommended at this time.

- 9. **Schools**—The Special Projects Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Prince George's County Subdivision Regulations, Prince George's County Council Bill CB-30-2003, and Prince George's County Council Resolution CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Cluster #	Elementary School Cluster 5	Middle School Cluster 3	High School Cluster 3
Dwelling Units	1 DU	1 DU	1 DU
Pupil Yield Factor	.24	.06	.12
Subdivision Enrollment	.24	.06	.12
Actual Enrollment	3,898	5,968	9,696
Completion Enrollment	148.8	90	181
Cumulative Enrollment	129.36	39.18	78.36
Total Enrollment	4,176.4	6,097.24	9,955.48
State Rated Capacity	3,771	6,114	10,392

Percent Capacity	110.75 %	99.72 %	95.79 %
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Source: Prince George's County Planning Department, M-NCPPC, January 2007

Prince George's County Council Bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. County Council Bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,870 and \$13,493 to be paid at the time of issuance of each building permit. The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes. The Special Projects Section finds that this project meets the adequate public facilities policies for school facilities contained in the Subdivision Regulations Section 24-122.02, Prince George's County Council Bill CB-30-2003 and CB-31-2003, and Prince George's County Council Resolution CR-23-2003.

10. **Fire and Rescue**—The Special Projects Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Subdivision Regulations Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E). Special Projects staff have determined that this preliminary plan is within the required 7-minute response time for the first due fire station Clinton Company #25, using the 7-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department. Pursuant to Prince George's County Council Resolution CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Subdivision Regulations Section 24-122.01(e)(1)(A) and (B) regarding sworn fire and rescue personnel staffing levels. The Fire Chief has reported that the department has adequate equipment to meet the standards stated in Prince George's County Council Bill CB-56-2005.
11. **Police Facilities**—The subject property is located in Police District V. The response time standard is 10 minutes for priority calls and 25 minutes for nonpriority calls. The times are based on a rolling average for the proceeding 12 months. The preliminary plan was accepted for processing by the Planning Department on March 19, 2008.

Reporting Cycle	Previous 12 Month Cycle	Priority Calls	Non-priority Calls
Acceptance Date March 19, 2008	2/07 - 2/08	10 minutes	12 minutes

The response time standards of 10 minutes for priority calls and 25 minutes for nonpriority calls were met March 25, 2008. The Police Chief has reported that the department has adequate equipment to meet the standards stated in Prince George's County Council Bill CB-56-2005. Pursuant to Prince George's County Council Resolution CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Subdivision Regulations Section 24-122.01(e)(1)(A) and (B) regarding sworn police personnel staffing levels.

12. **Public Utilities Easement (PUE)**—The PUE should be clear of all obstructions.
13. **Stormwater Management**—A Stormwater Management Concept Plan, CSD No.3145-2008-00, was approved March 21, 2008, by the Prince George’s County Department of Public Works and Transportation (DPW&T) with conditions. Development of the site must be in accordance with this approved plan and any revisions.
14. **Archeology**—A Phase I archeological survey is not recommended on the property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. A house was built on the northern part of the property in 1988. Most of the southern portion of the property contains slopes above 15 percent. Archeological sites are rarely found on slopes above 10 percent. However, the applicant should be aware that there are two known archeological sites within a one-mile vicinity of the subject property, both dating to the late 19<sup>th</sup> to early 20<sup>th</sup> century. A Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies, or federal permits are required for a project.
15. **Historic Preservation**—This proposed subdivision will have no effect on historic resources.
16. **Variance**—The applicant is requesting a variance with the subject application to allow for the construction of a 22-foot driveway access easement to the proposed Lot 8B. Pursuant to Subdivision Regulation 24-128 (b)(1) the Planning Board may approve plats and plans of development containing a private right-of-way easement in the R-E Zone if no more than four (4) lots are to be served by the easement and if such easement has a minimum right-of-way width of twenty-two (22) feet connecting the lots to a public road; All lots served by such easement has a minimum net lot area of two (2) acres, as provided in Section 24-129(a) of this Subtitle; and the use of such lot(s) shall be restricted to one-family dwellings. The subject application is proposing only one lot for the purpose of constructing a single-family dwelling for the son of the applicant. The Zoning Ordinance defines the easement which contains the driveway a street and requires a minimum 17-foot side yard setback for the dwelling on Lot 8A. The existing house will be 6.8 feet away from the easement requiring a variance of 18.2 feet. The distance to the property line will remain at 28.8 feet total (22-foot driveway and the 6.8-foot side yard).

**Applicant Variance Request from Section 27-442(a)(1)(e) Table IV Yards**

Section 27-442(a)(1)(2) Table IV Yards of the Zoning Ordinance establishes a minimum 17-foot side yard for lots in the R-E Zone. Variances may be granted by the Planning Board provided the application meets the following Findings, contained within Section 27-230(a) of the Prince George’s County Code.



- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographical conditions, or other extraordinary situations or conditions;”**

Lot 8B is narrow at the front and gradually widens out to create a “V” shaped lot. The lot is split in two by 100-year flood plain at the rear of the subject property.

The subject site was re-zoned from the R-A Zone via the 1993 Subregion V Master Plan and Sectional Map Amendment. The property owner was unaware of this fact. It was not something that he requested or had knowledge of until attempting to subdivide his property by deed using the lineal descendant provisions of the Code. The family home is already located on proposed Lot 8A and can not be relocated. A variance would not be required, except for the strict definition of a street in the Zoning Ordinance. The 22-foot-wide “street” created will serve as a driveway easement to access proposed Lot 8B for the construction of a single-family residential dwelling for the property owner’s son. The distance of the existing family home to the original property line will not change with the creation of the 22-foot-wide driveway easement.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;**

The hardship to the owner would be the loss of Lot 8B. If the variance is not granted, the back portion of the existing eastern half of Lot 8 could not be used because the entirety of this lot would need to be removed from the application, thereby making the land undevelopable.

The property owner did not request that the property be rezoned from R-A, which would allow for subdivision by deed to a lineal descendant, to R-E, which would require a preliminary plan of subdivision. The impetus for purchasing the property was to create a lot from this 4.77-acre property for the benefit of his son as the previous R-A zoning allowed. The property owner was not aware of the re-zoning of the property from R-A to R-E through the 1993 Subregion V Master Plan and Sectional Map Amendment. Denial of the requested variance would not allow him to build a house for his son in immediate proximity to the family home. The surrounding lots are all developed and occupied.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

The granting of this variance will not substantially impair the intent, purpose, or integrity of the 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V*. The plan calls for the preservation of the low-to-moderate single-family residential neighborhood character which is exactly what is proposed by the subject application.

There will be no substantial impairment of the intent, purpose or integrity of the

Subregion V Master Plan. The zoning and acreage allows the proposed two lots to be created. The relationship between the existing property owner's home (Lot 8) and that of the neighbor on Lot 7 will remain the same. The distance to the actual property line will remain the same, 28.8+ feet, which is well in excess of the 17-foot minimum required by the Zoning Ordinance. There is about 72 feet between the two existing homes now. There are trees and landscaping between the two houses as well. A residential driveway easement to access proposed Lot 8B, which is the reason for the requested variance, will not alter the beneficial relationship that exists between existing Lot 7 and proposed Lot 8A or proposed Lot 8B. The owner of Lot 7 supports the requested variance and the surrounding owners have all been notified and have no opposition to this request.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the date of notice of the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Squire, seconded by Commissioner Vaughns, with Commissioners Squire, Vaughns, Cavitt and Parker voting in favor of the motion, and with Commissioner Clark absent at its regular meeting held on Thursday, June 19, 2008, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of July 2008.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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